

RECEIVED
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Case Action No. 2:07-cv-807

FORM 35 REPORT

Curves International, Inc.,

Plaintiff,

vs.

Linda S. Mosbarger,

Defendant

Pursuant to this Court's Order of October 12, 2007, the parties hereto provide the following report under Rule 26(f) of the Federal Rules of Civil Procedure:

1. Date and Place of Meeting

(a) The parties hereto conducted their meeting under Rule 26(f) of the Federal Rules of Civil Procedure on October 31, 2007.

(b) Participating in the meeting was Jason J. Stover for plaintiff, Curves International, Inc., and Connie J. Morrow for defendant, Linda S. Mosbarger.

2. Pre-Discovery Disclosures

The parties will exchange by December 14, 2007 the information required by Fed. R. Civ. P. 26(a)(1).

3. Discovery Plan

The parties jointly propose to the court the following discovery plan:

(a) Discovery will be needed on at least the following subjects:

1. The franchise relationship between the parties;

2. The franchised business operated by Defendant;
3. Defendant's decision to terminate her Franchise Agreement;
4. The independent business opened by Defendant;
5. The customers served by Defendant's franchised business and her independent business; and
6. Advertising placed by Defendant.

(b) Disclosure or discovery of electronically stored information should be handled as follows:

The parties will address this issue when it arises.

(c) The parties have agreed to an order regarding claims of privilege or of protection as trial-preparation material asserted after production, as follows:

Not applicable.

(d) All discovery commenced in time to be completed by April 1, 2008.

(e) Maximum of 25 interrogatories and 25 requests for production of documents by each party to any other party.

(f) Maximum of 25 requests for admission by each party to any other party.

(g) Maximum of 5 depositions by plaintiff and 5 by defendant.

(h) Each deposition limited to maximum of 7 hours unless extended by agreement of parties.

(i) Reports from retained experts under Rule 26(a)(2) are due from each party by February 1, 2008.

(h) Supplementations under Rule 26(e) are due April 1, 2008.

4. Other Items

(a) The parties do not request a conference with the court before entry of the scheduling order.

(b) The parties request a pretrial conference in July 2008.

(c) Plaintiff should be allowed until April 1, 2008 to join additional parties and to amend pleadings.

(d) Defendant should be allowed until April 1, 2008 to join additional parties and to amend the pleadings.

(e) All potentially dispositive motions should be filed by May 1, 2008.

(e) Settlement cannot be evaluated prior to the resolution of Plaintiff's motion for preliminary injunction.

(f) Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from each party by July 1, 2008.

(g) Parties should have 20 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

(h) The case should be ready for trial by September 1, 2008 and at this time is expected to take approximately 5 days.

Dated: November 5, 2007

**GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.**

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